IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE V.GIRI

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

WP(C).No. 22368 of 2007(S)

AGAINST THE ORDER DATED 21/06/2007 IN IA.1413/2006 IN OP.467/2006 of FAMILY COURT,TRIVANDRUM
.....

PETITIONER/RESPONDENT:

C.RAMESH,
139,SHIVANTHRA NAGAR,
NEAR TRIPUUSANDRA PO,
BANGALORE-75.

BY ADV. SRI.N.D.JOY
SMT.RANI JOY

RESPONDENTS/PETITIONERS:
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1. KAVITHA DEVI,
W/O.C. RAMESH,
T.C.13./2091 (5), POURNAMI,
KOIKKAL LANE, KANNAMOOLA,
MEDICAL COLLEGE P.O.,
TRIVANDRUM.

2. SAKTHI (MINOR)
REPRESENTED BY MOTHER
T.C.13./2091 (5), POURNAMI,
KOIKKAL LANE, KANNAMOOLA,
MEDICAL COLLEGE P.O.,
TRIVANDRUM.

BY ADV. SMT.MAJIDA.S

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.22368/2007

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE COUNTER AFFIDAVIT IN I.A.1412/2006 IN OP.467 OF 2006 BEFORE THE FAMILY COURT, TRIVANDRUM.

EXT.P2: COPY OF THE ORDER DATED 1.6.2007 IN I.A.1413/2006 IN OP.467/2006 ON THE FILE OF THE FAMILY COURT, TRIVANDRUM.

/TRUE COPY/

J.B.KOSHY & V.GIRI, JJ.

W.P.(C).NO.22368 OF 2007 (S)

Dated this the 16th day of August, 2007

J U D G M E N T

KOSHY,J.

The writ petitioner married the 1st respondent as per the Hindu rites on 30.11.2003. They lived at Bangalore and a baby called "Sakthi" was born in the wedlock. Child is now one year and nine months old. It is the case of the petitioner that 1st respondent was a house wife and on 17.10.2005, she deserted him and she has now picked up a job in Sri Chithira Public School, Chirayinkeezhu and she is qualified in M.A. B.Ed and also wrote M.C.A. examination and she is working as a teacher for entrance coaching. It is further stated that petitioner had a motor vehicle accident and he has no job at present and he was looked after by the father aged 74 years. It is also submitted that petitioner has filed O.P.No.1192/2006 for restitution of conjugal rights and petitioner being a natural guardian also filed I.A.No.3790/2006 for custody of the baby.

The above O.P.No.1192/2006 was already directed to be disposed of as expeditiously as possible. Meanwhile, interim order of maintenance was passed directing the petitioner to pay Rs.2,000/- to the child. The above Ext.P2 order is challenged in this writ petition.

2. It is not disputed that petitioner was a Software Engineer. According to the respondent, he is employed as a senior Software Engineer in Oracle company and is getting Rs.70,000/- a month. It is true that according to the petitioner he has suffered injuries in a motor vehicle accident. That injury is not be permanent. In any way, he has not mentioned what was the actual injuries suffered in the accident. It is also argued by the respondent that being a Software Engineer, he can work in his house also. It is true that respondent is also educated. According to the respondent, she has no job. Whatever may be that, court did not order any maintenance to the wife and what was ordered is to give interim maintenance to the child and the fact that petitioner filed an application for custody and a petition for restitution of conjugal rights

affirming that he is able to maintain his child and wife is a matter that has to be looked into and we are not accepting the contention that petitioner is unable to pay Rs.2,000/- as maintenance to the child. Respondent has claimed maintenance at the rate of Rs.15,000/- to herself and R.10,000/- to the child. The court below did not order any maintenance to the respondent wife. But only ordered a meager rate of Rs.2,000/- to the child. Considering the facts and circumstances of the case, we are of the view that no interference is required in the order of interim maintenance ordered by the Family Court at the instance of the petitioner. With the above observations this writ petition is dismissed.

J.B.KOSHY, JUDGE

V.GIRI, JUDGE

prp

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO. OF 2006 ()

J U D G M E N T

2nd July, 2007